

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

GISSELLE RUIZ,)
Individually and on behalf of all others)
Similarly situated,)
Plaintiff,)
)
v.) Civil Action No.05-11052 NMG
)
BALLY TOTAL FITNESS HOLDING CORP.,)
A Delaware Corporation, and)
HOLIDAY UNIVERSAL, INC.,)
A Delaware Corporation,)
Defendants.)
)

**DEFENDANTS' MOTION TO ENLARGE TIME FOR
RESPONDING TO AMENDED CLASS ACTION COMPLAINT**

Defendants, Bally Total Fitness Holding Corporation and Holiday Universal, Inc., hereby move to enlarge the time period in which they may respond to the Amended Class Action Complaint until after this Court rules on Defendants' anticipated motion to stay this action pending issuance of the Supreme Judicial Court of Massachusetts' decision in *Albats v. Town Sport International*, SJC-09432, with the Defendants' responses due thirty days after lifting of the stay in the event a stay issues or thirty days after this Court's ruling on their motion to stay in the event no stay issues. When they do respond to the Amended Class Action Complaint, Defendants intend to file a motion to dismiss, and the *Albats* decision may be at the core of that motion; it would conserve the parties' and this Court's resources to defer briefing and action on any such dismissal motion until the stay issue first is addressed. Plaintiff has assented to this Motion through counsel.

Wherefore, this Court should (a) allow this Motion, (b) enter an order enlarging the time period in which Defendants may respond to the Amended Class Action

Complaint until thirty days after lifting of a stay in the event the Court allows Defendants' anticipated motion to stay or, in the event the stay motion is denied, until thirty days after ruling on that motion, and (c) grant the Defendants such other and further relief as it deems appropriate.

Respectfully submitted,

BALLY TOTAL FITNESS HOLDING CORP.
and HOLIDAY UNIVERSAL, INC.,

By their attorneys,


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Dated: August 5, 2005

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within document was served upon counsel of record for the Plaintiff, Elizabeth Ryan, Esq., Roddy Klein & Ryan, 727 Atlantic Avenue, Boston, MA 02111, by sending a copy of the same to him by hand-delivery this 5th day of August, 2005,


Kathleen M. Genova